

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
OF THE UNITED STATES OF AMERICA

In the Matter of

Federal-State Joint Board on
Universal Service

) FCC No. 96-93
)
)
) Common Carrier Docket No. 96-45
)

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OPENING COMMENTS ON THE FEDERAL-STATE JOINT BOARD'S RECOMMENDED DECISION
AND CONSEQUENCES FOR UNIVERSAL SERVICE IN
LOW-INCOME, MINORITY, AND LIMITED-ENGLISH-SPEAKING COMMUNITIES

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SUMMARY OF FILING

1. The Federal-State Joint Board's Recommended Decision makes significant contributions to universal service in low-income, minority, and limited-English-speaking communities:

- ▶ Recognizing the disparities in access between schools and libraries in more affluent communities and those in traditionally underserved low-income, minority, and limited-English-speaking communities, the Recommended Decision supports higher discounts for the latter to avoid perpetuating and to remedy these existing disparities. [Recommended Decision ¶¶ 562-563.]
- ▶ The Recommended Decision supports states' efforts to ensure multi-lingual information regarding services, rates, and billing to their respective residents. [Recommended Decision ¶ 393.]
- ▶ The Recommended Decision modifies the federal Lifeline program to reach low-income consumers in every state. [Recommended Decision ¶ 417.]
- ▶ In order to help increase subscribership among low-income consumers, the Recommended Decision prohibits carriers from disconnecting local service for failure to pay toll charges and supports providing voluntary toll limitation free of charge to low-income consumers. Furthermore, it prohibits restrictions on the number of supported service connections for low-income consumers, and prohibits service deposits for Lifeline customers with toll blocking. [Recommended Decision ¶¶ 384, 387, 428, 429.]

2. **UNIVERSAL SERVICE GOAL.** The National Council of La Raza and others continue to recommend that the Federal Communications Commission should give effect to the principles of Section 104 and Section 254(b) and should state a universal service goal that, in each state, carriers should work to achieve that state's statewide average rate of subscribership specifically in that state's low-income, minority, and limited-English-speaking communities.

3. **COMMUNITY-BASED ORGANIZATIONS.** The National Council of La Raza and others continue to recommend that the Federal Communications Commission should ensure full and equal access to advanced services for community-based organizations. Section 254(b) provides that access to advanced telecommunications services should be had in all regions of the nation, and focusing on the centrally located community-based organizations would be an efficient and effective beginning. The fact that schools, libraries, and health-care providers are specifically mentioned does not preclude giving equal effect to the provisions of section 254(b) promoting access in all regions. At the very least, community-based organizations providing educational, health, and literacy services should be embraced.

1 Introduction

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3 The Federal-State Joint Board's Recommended Decision makes significant contributions
4 to universal service in low-income, minority, and limited-English-speaking communities, and
5 the National Council of La Raza, Southern Christian Leadership Conference, Korean Youth
6 and Community Center, Filipino Civil Rights Advocates, Filipinos for Affirmative Action,
7 Association of Mexican-American Educators, California Association for Asian-Pacific Bilingual
8 Education, Chicano Federation of San Diego County, El Proyecto del Barrio, Escuela de la
9 Raza Unida, and Lawyers' Committee for Civil Rights of the San Francisco Bay Area
10 ("National Council of La Raza") very much appreciate those contributions as well as the
11 consideration given their prior comments.

12 At this stage, in response to Public Notice DA 96-1891,¹ they raise two key
13 recommended changes to the Recommended Decision. First, the Recommended Decision
14 repeats throughout the Joint Board's and the Commission's significant concerns with the low
15 subscribership levels for many communities. E.g., Recommended Decision ¶ 416. Once
16 again, the National Council of La Raza and others urge the Commission to adopt a universal
17 service goal that, in each state, carriers should work to achieve the state's *statewide average*
18 *rate* of subscribership specifically in that state's low-income, minority, and limited-English-
19 speaking communities. Second, the National Council of La Raza renew their recommendation
20 that the Commission encourage access for community-based organizations to advanced
21 telecommunications and information services.

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26 ¹ Public Notice DA 96-1891 directed parties to file comments on the Recommended
Decision by December 16, 1996. That date was subsequently extended to December 19, 1996.

1 **I. THE NATIONAL COUNCIL OF LA RAZA AND OTHERS ACKNOWLEDGE**
2 **AND APPRECIATE THE RECOMMENDED DECISION'S SIGNIFICANT**
3 **CONTRIBUTIONS TO UNIVERSAL SERVICE IN LOW-INCOME, MINORITY,**
4 **AND LIMITED-ENGLISH-SPEAKING COMMUNITIES.**

5 The Federal-State Joint Board's Recommended Decision makes significant contributions
6 to universal service in low-income, minority, and limited-English-speaking communities, and
7 the National Council of La Raza wishes to acknowledge those contributions.

8 1. Recognizing the disparities in access between schools and libraries in more
9 affluent communities and those in traditionally underserved low-income, minority, and limited-
10 English-speaking communities, the Recommended Decision supports higher discounts for the
11 latter to avoid perpetuating and to remedy these existing disparities. [Recommended Decision
12 ¶¶ 562-563.]

13 2. The Recommended Decision supports states' efforts to ensure multi-lingual
14 information regarding services, rates, and billing to their respective residents. [Recommended
15 Decision ¶ 393.]

16 3. The Recommended Decision modifies the federal Lifeline program to reach low-
17 income consumers in every state. [Recommended Decision ¶ 417.]

18 4. In order to help increase subscribership among low-income consumers, the
19 Recommended Decision prohibits carriers from disconnecting local service for failure to pay
20 toll charges and supports providing voluntary toll limitation free of charge to low-income
21 consumers. Furthermore, it prohibits restrictions on the number of supported service
22 connections for low-income consumers, and prohibits service deposits for Lifeline customers
23 with toll blocking. [Recommended Decision ¶¶ 384, 387, 428, 429.]

24 For the reasons stated in the Recommended Decision and in National Council of La
25 Raza's and other parties' prior comments, these recommendations are well supported by the
26 public interest and the Commission's legal authority to implement them.

1 **II. THE COMMISSION SHOULD ADOPT A UNIVERSAL SERVICE GOAL THAT,**
2 **IN EACH STATE, CARRIERS SHOULD WORK TO ACHIEVE THAT STATE'S**
3 **STATEWIDE AVERAGE RATE OF SUBSCRIBERSHIP IN THE STATE'S LOW-**
4 **INCOME, MINORITY, AND LIMITED-ENGLISH-SPEAKING COMMUNITIES.**

5 In their prior comments, the National Council of La Raza recommended that the Joint
6 Board and the Commission should give effect to the key principles of Section 104 and Section
7 254(b) by stating a universal service goal that, in each state, carriers should work to achieve
8 that state's statewide average rate of subscribership specifically in that state's low-income,
9 minority, and limited-English-speaking communities. As the Federal Communications
10 Commission has subscribership levels are far lower in these communities. Correspondingly,
11 carriers manage to serve other areas at subscribership levels well above the statewide average.
12 California's Public Utilities Commission has established such an a universal service goal of 95
13 percent service (California's statewide average) particularly in California's low-income,
14 minority, and limited-English-speaking communities. The Joint Board acknowledged this
15 recommendation, Recommended Decision ¶ 415, but appears not to have reached a conclusion
16 on its merits.

17 Paragraph 50 of the Notice of Proposed Rulemaking requested comment regarding "the
18 Commission's overall responsibilities under Sections 1 and 254 with regard to low-income
19 consumers". As do Section 1 and Section 254, the Recommended Decision acknowledged that
20 factors other than rates and affordability account for the failure to achieve universal
21 subscribership levels. E.g., Recommended Decision ¶ 126. The National Council of La Raza
22 recommends that the Commission craft a universal service goal that recognizes these factors,
23 too--that the Commission should recognize that race, national origin, and language also account
24 considerably for the failure to achieve universal service in many regions of the United States,
25 and should implement corrective policies. The Commission has new responsibilities under
26 Section 104 of the Telecommunications Act, "to make available, so far as possible, to all the

1 people of the United States *without discrimination on the basis of race, color, religion,*
2 *national origin, or sex* a rapid, efficient, Nation-wide, and world-wide wire and radio
3 communication service with adequate facilities at reasonable charges"² In its
4 subscribership reports, the Commission has long recognized that people of Hispanic origin and
5 African-Americans independently have far lower subscribership levels. The National Council
6 of La Raza's prior comments presented a record demonstrating those differences.³

7 To bring universal service to low-income, minority, and limited-English-speaking
8 communities, let alone preserve and advance it, the National Council of La Raza continues to
9 respectfully urge the Federal Communications Commission to state a universal service goal
10 that, in each state, carriers should work to achieve that state's statewide average rate of
11 subscribership specifically in that state's low-income, minority, and limited-English-speaking
12 communities.

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14 **III. THE FINAL DECISION SHOULD IMPLEMENT THE ACT'S PRINCIPLES TO**
15 **ENCOURAGE ACCESS FOR COMMUNITY-BASED ORGANIZATIONS TO**
16 **ADVANCED TELECOMMUNICATIONS AND INFORMATION SERVICES.**

17 In their prior comments, the National Council of La Raza recommended the Federal
18 Communications Commission encourage access for community-based organizations to
19 advanced telecommunications and information services. People in the community often seek
20 information and leadership on economic, social, and governmental issues first and foremost
21 from the community-based organizations. As their comments noted, however, community-
22 based organizations hardly have the full and equal access to advanced services they should
23 have. Section 254(b) provides that access to advanced telecommunications services should be

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25 ² Telecommunications Act of 1996, sec. 104 (amending 47 U.S.C. § 151).

26 ³ Opening Comments on Universal Service in Low-Income, Minority, and Limited-
English-Speaking Communities at 5-9, 10-18, exhs. 1-5 (Apr. 11, 1996).

1 had in all regions of the nation, and focusing on the centrally located community-based
2 organizations would be an economically efficient and effective beginning. The fact that
3 schools, libraries, and health-care providers are specifically mentioned does not preclude the
4 Commission's responsibilities to give full and equal effect to the provisions of section 254(b)
5 promoting access in all regions. At the very least, the National Council of La Raza
6 recommended that community-based organizations providing educational, health, and literary
7 services should have such access.

8 The Recommended Decision acknowledged this recommendation, but did not adopt it.
9 The draft stated that the Telecommunications Act of 1996 "specifically defines the categories
10 of institutions that are eligible for discounted telecommunications and information services, and
11 we find no evidence that Congress intended this Joint Board or the Commission to supplement
12 the 1996 Act's definition", citing 47 U.S.C. § 254(h)(5)(C). Recommended Decision ¶¶ 20,
13 26.

14 Because of their critical importance, the National Council of La Raza reiterates this
15 recommendation and undertakes to address the draft's statutory concerns. Community-based
16 organizations are carrying the brunt of the load of providing critical services. As they are
17 called upon to serve more of the poor with fewer resources, they need quick and effective
18 access to the information and programs necessary to provide these services. They have urgent
19 needs *now* for full access to the information superhighway. They are also operating at deficits.
20 Their sources of funds are not increasing nearly as rapidly as their expenses to provide even
21 minimal services to the community. Thus, they would need access to these advanced
22 telecommunication services at affordable rates. Surely as non-profit charitable organizations
23 serving the poor, they should qualify for discounted rates.

24 The National Telecommunications and Information Administration suggests that until
25 connectivity to households is more widespread, community centers, like public schools and
26 libraries, play a pivotal role in providing information access to underserved communities.

1 California's Legislature found that community-based organizations should have such priority
2 "[b]ecause of their economic and social impact".⁴ Mr. Bong Hwan Kim of the Korean Youth
3 and Community Center agrees on the importance of having advanced information technologies
4 available in community-based organizations. His organization has found that such technologies
5 provide a powerful mechanism to reach isolated low-income, immigrant communities with
6 information on social services, education, arts and culture, and consumer issues.⁵ Indeed,
7 KYCC is using advanced communication technology to enhance its capacity and efficiency in
8 order to continue or increase its levels of services to the community even as resources
9 decline.⁶

10 The Joint Board's and the Commission's responsibilities for advanced services are *not*
11 limited to cost issues and federal support mechanisms, and they are *not* limited to the
12 provisions specifically for schools, libraries, and health-care providers. Rather, the
13 Telecommunications Act of 1996 directs that the Joint Board and the Commission "*shall* base
14 policies for the preservation and advancement of universal service on the following principles".
15 47 U.S.C. § 254(b). "Access to advanced telecommunications and information services should
16 be provided in all regions of the Nation." *Id.* § 254(b)(2). Providing access to community-
17 based organizations provides one of the most efficient and effective means of doing so.
18 Section 254(b)(3) further states that "[c]onsumers in all regions of the Nation, including low-
19 income consumers and those in rural, insular, and high cost areas, should have access to
20 telecommunications and information services, including interexchange services and *advanced*
21 *telecommunications and information services*, that are reasonably comparable to those services
22 provided in urban areas and that are available at rates that are reasonably comparable to rates
23

24 ⁴ Act of July 21, 1994, ch. 278, § 2(b)(6).

25 ⁵ Declaration of Bong Hwan Kim ¶ 11.

26 ⁶ *Id.* ¶ 10.

1 charged for similar services in urban areas." In sum, Section 254(b)(2) states that advanced
2 telecommunications should be accessible to all people. Section 254(b)(3) reiterates the general
3 concept of section 254(b)(2), but further expresses an explicit intent that low-income
4 consumers, consumers in rural areas, consumers in insular areas, and consumers in high-cost
5 areas, too, are among the "consumers in all regions" to have access to telecommunications
6 services (advanced services inclusive). Both require the Commission to promote advanced
7 services beyond those provisions for schools, libraries, and health-care providers.

8 The Telecommunications Act further directs the Joint Board and Federal
9 Communications Commission to define that "evolving level of telecommunications services"
10 which is universal service, "taking into account advances in telecommunications and
11 information technologies and services". Id. § 254(c)(1). Support for those community-based
12 organizations increasingly carrying the brunt of the load of providing critical economic and
13 governmental services in the communities would assuredly meet the criteria specified for
14 consideration in subsections (A)-(D). The Telecommunications Act of 1996 nowhere prohibits
15 the Commission, in its efforts to advance universal service, from designating certain additional,
16 advanced services (such as those being proposed for schools) to be made available to
17 community-based organizations in order to efficiently promote the explicit principle that
18 "[a]ccess to advanced telecommunications and information services should be provided in all
19 regions of the Nation".⁷ Intervenor urge the Commission to exercise that discretion in order
20 to fulfill the stated statutory mandate.

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23 ⁷ The Act directs the Commission's discretion and provides specific guidance in the
24 provision of advanced services to schools, libraries, and health-care providers. As the
25 Commission recognizes its "discretion to determine whether such a [greater] discount [for
26 economically disadvantaged schools] is necessary to make access to and use of such services
affordable for disadvantaged schools and libraries", Recommended Decision ¶ 561, the
Commission has discretion to implement the other, more general provisions of the Act directed
the Commission to achieve access to advanced telecommunications and information services in
all of the other regions of the Nation.

1 The California Public Utilities Commission's recent universal-service decision provides
2 an example which goes far to bring the information superhighway, universal service, and
3 competition to California's low-income, minority, and limited-English-speaking communities.
4 It recognized that "CBOs, especially in low income and non-English speaking communities,
5 oftentimes serve as a meeting place for people in those communities, and the CBOs oftentimes
6 act as advocates on behalf of those communities on issues of interest. By providing access to
7 CBOs, we can position communities to take advantage of the benefits of the information age,
8 and promote access to the technology and information infrastructure throughout the state."
9 Decision 96-10-066 at 85, File No. I.95-01-021 (Oct. 25, 1996).

10 Under the California PUC's decision, qualified community-based organizations are those
11 exempt from taxation under Section 501(c)(3) or 501(d) of the *Internal Revenue Code*, which
12 offer health care, educational instruction, job training, or job placement. Qualified CBOs are
13 entitled to 25 percent off the price for the following advanced services, limited to one or two
14 such lines: switched 56, ISDN, T-1, DS-3, and their functional equivalents. These CBOs may
15 negotiate even greater discounts. There is \$5 million annually available to fund such
16 discounted access. Decision 96-10-066 at 85-86.

17 As the California Public Utilities Commission stated,

18 The California Teleconnect Fund also reduces the dichotomy between the
19 information rich and the information poor. . . . By providing qualifying CBOs
20 with discounts for high speed data connections, these CBOs can better serve their
21 constituencies, and provide the communities they serve with increased access to
22 the telecommunications network, thereby decreasing the stratification between
23 information rich and information poor communities.

24 Decision 96-10-066 at 90-91. The Federal Communications Commission has demonstrated an
25 equal concern with the separation between information rich and information poor, and the
26 National Council of La Raza and others strongly urge the Commission to adopt this
recommendation.

Conclusion

The National Council of La Raza, Southern Christian Leadership Conference, Korean Youth and Community Center, Filipino Civil Rights Advocates, Filipinos for Affirmative Action, Association of Mexican-American Educators, California Association for Asian-Pacific Bilingual Education, Chicano Federation of San Diego County, El Proyecto del Barrio, Escuela de la Raza Unida, and Lawyers' Committee for Civil Rights of the San Francisco Bay Area very much appreciate the considerable progress which the Joint Board's Recommended Decision makes towards universal service in low-income, minority, and limited-English-speaking communities. They respectfully submit, however, that further prudent advances are needed, that the Telecommunications Act of 1996 authorizes those necessary advances, and

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1 that the Federal Communications Commission should incorporate the recommendations into its
2 final decision and rules.

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4 Dated in San Francisco, California, on the 18th day of December, 1996.

5 Respectfully submitted,

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